

# QUID NOVI

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# QUID NOVI

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**Envoyez vos commentaires ou articles avant jeudi 5pm à l'adresse: quid.law@mcgill.ca**

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Contributions should preferably be submitted as a .doc attachment.

# EDITORIAL

I want to congratulate Neil Modi for his thoughtful article in this issue regarding grades at this Faculty. While I wholeheartedly agree with his call to clear up the confusion, I am not sure that we can do so by ending the dialogue. Indeed I would ask: What dialogue? Dialogue, I submit, is what we need more of, and not just about grades.

But dialogue of what kind? John Haffner and I tried to create dialogue around the issue of grades and grading during our first year in the Faculty. We certainly talked a lot, and many others in the faculty spoke and listened. And yet here we remain.

Grades mean many things to many people -- banal, yes, but no less true for it. Grades are categories. Grades are stains. Grades are human judgments. Grades are currency. And grades are not going away.

We should face these manifold facts squarely and have a faculty-wide dialogue about what all of our concerns are with respect to grades and only then try to enact a sensible policy. Mr. Modi's call for clarity is laudable, but it is a call for something that, at the present moment, does not exist. For it to exist, we are going to have to bring it in to being. Better if we do so together, as a community.

- J.M.



# THE SUNSHINE ARTICLE

By Alison Glaser (Law I)

Well, it's a new year with new resolutions to be broken, or possibly upheld. So, let's talk about extra-curricular activities. As some of you may have guessed from my last article, I am involved with *Actus Reus* this year (the play is on this week, Wednesday, Thursday and Friday. Just a reminder. Tickets are \$5. Come!). I have found it to be a great outlet and it has allowed me to get involved in something not law-related which is fantastic. Because seriously, after a long day, do you really need to go home and talk contracts? Or, you know, study? Now, I am NOT advocating not studying and not doing any work. That would be insane. I just want to remind you about balance. If you do nothing but work work work all the time, you *will* burn out. There is no question about that. If you have no new year's resolution yet, then this should be it: get involved in something fun.

But what can I do that is enjoyable but not ridiculously time-consuming, you ask? Well, McGill is great for these kinds of things. Obviously, there are many opportunities to get involved in things at the law school, but I won't talk about those since I'm assuming you know about them already and if not, go talk to your friendly neighbourhood LSA people. In regular McGill (you know, that place down the hill) the SSMU has a bunch of clubs that may interest you. A full

list can be found at <http://www.ssmu.ca/en/home/clubs.html> but here is a sampling of some clubs I thought were interesting: Flintknappers Club, Foosball Club, Knitting Knetwork, Savate Kickboxing Club, Speed Dating Club, Swing Kids Society. Obviously there are many more, but these looked fun. To give you an idea of how much time commitment we're talking here, when I was in undergrad I was in the McGill Choral Society, which is an un-auditioned choir. We met once a week from 7 to 9 pm until just before a concert when we would have to come in a bit more often. So, it allowed plenty of study time, but was enough to get me out of the library and meet new people and let go a little.

Okay, that is basically all from me this week. I apologize for the shortness, but I *have* been at rehearsals a lot recently (although not as much as some people in the play whom I admire greatly). So due to my general braindeadness, I will leave you with a joke that was voted the funniest in the world, apparently:

Sherlock Holmes and Dr. Watson went on a camping trip. After a good meal and a bottle of wine, they were exhausted and went to sleep.

Some hours later, Holmes awoke and nudged his faithful friend. "Watson, look up at the sky and tell me what you see." Watson replied, "I see millions and millions of stars."

"What does that tell you?"

Watson pondered for a minute. "Astronomically, it tells me that there are millions of galaxies and potentially billions of planets. Astrologically, I observe that Saturn is in Leo. Time wise, I deduce that the time is approximately a quarter past three. Theologically, I can see that the Lord is all powerful and that we are small and insignificant. Meteorologically, I suspect that we will have a beautiful day tomorrow. What does it tell you?"

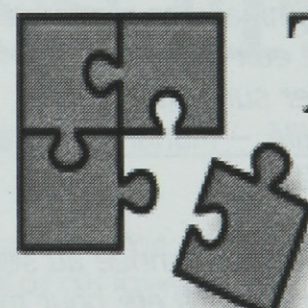
Holmes was silent for a minute, then spoke.

"Watson, you idiot, someone has stolen our tent." ■

"Being happy doesn't mean everything is perfect. It means you have decided to look beyond the imperfections."

-Unknown

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# INNOCENCE MCGILL IS RECRUITING!

Are you interested in criminal law? Are you looking to gain practical experience in the course of your studies? Do you believe in working to reverse miscarriages of justice? If so, Innocence McGill might be for you. The project was launched early last year as an entirely student-run initiative dedicated to researching and investigating claims of wrongful convictions within the province of Quebec. In collaboration with faculty members and prominent criminal lawyers, student members of the project work on files to help secure the freedom of prisoners in Quebec who advance claims of factual innocence of serious crimes.

Cette année encore, notre groupe est prêt à recruter huit nouveaux membres dynamiques qui sauront mettre à contribution leur talent et enthousiasme à tous les aspects des opérations de notre groupe, y compris l'évaluation des dossiers des condamnés, les enquêtes, la recherche juridique, la gestion des dossiers, la traduction, la correspondance avec le public et les médias, ainsi que plusieurs autres responsabilités. La préférence sera accordée aux candidats qui comprennent bien le français du Québec et qui sont à l'aise à travailler en anglais, qui s'intéressent au droit criminel, qui seront à Montréal cet été, qui prévoient obtenir leur diplôme en 2008 et qui aiment le travail d'équipe. Quoi de

mieux pour vous inciter à vous joindre à notre équipe que le témoignage de nos cinq recrues de l'an dernier :

*Innocence McGill has provided me with truly unique and hands-on opportunities. In my one year with Innocence, not only did I contribute to providing hope to applicants who otherwise had nowhere else to turn, but I learned a great deal from other student members and members of the advisory board while doing it. Par contre, si je devais témoigner d'une seule expérience, je n'hésiterais point en précisant que mon expérience la plus captivante en tant que membre d'Innocence McGill fut l'ensemble de mes discussions/rencontres avec les criminalistes renommés ayant eux-mêmes plaidé le dossier sur lequel j'ai travaillé. – Marianna Ferraro, Law III*

*Ma première année au sein d'Innocence a été pour moi une excellente occasion de me pencher sur des problèmes juridiques réalistes, des problèmes qui dépendent largement des faits et des acteurs impliqués. L'expérience en vaut la peine ! – François Beaudry, Law II*

*Un membre d'Innocence McGill se voit plongé directement dans la recherche criminelle. Quand on ne peut difficilement concevoir d'atteinte plus grave à nos droits que de se voir privé de notre liberté, on*

*ne peut s'imaginer d'impératif plus pressant que le soutien des prisonniers victimes d'une erreur judiciaire. – Simon Seïda, Law II*

*As a member of Innocence McGill, I developed practical skills by working on files and interacting with lawyers and professionals within the realm of criminal law. Furthermore, this opportunity has enabled me to meet new people and to actively interact with fellow students dedicated to our common goal of exonerating the wrongfully convicted. Without a doubt, I credit the dynamic team of students involved in the Innocence project for making this a truly rewarding experience. J'encourage fortement tous les intéressés à postuler ! – Claire d'Anglemont de Tassigny, Law II*

*Innocence m'a permis de travailler avec les vrais éléments de preuve et documents officiels dont on parle en classe (ex. mise en accusation, procès-verbaux des procès, photos de scène de crime, etc.), de lire les mémoires des avocats des deux parties, de consulter les notes des avocats qui ont représenté notre client en première instance et en appel, de voir leurs difficultés, les stratégies qu'ils ont adoptées pour les contourner et de jouer au détective pour découvrir de nouveaux éléments de preuve. Mais le plus satisfaisant dans tout ça est de sentir que je fais quelque chose de vraiment utile pour quelqu'un. – Jean-Olivier Lessard, Law III*

Students interested in joining Innocence McGill are encouraged to submit their CV (please, no grades) and a one-page letter of intent to [innocence.law@mail.mcgill.ca](mailto:innocence.law@mail.mcgill.ca)

no later than February 6th, 2006. Interviews will be conducted February 14th, 15th and 16th between 4:30 and 7:30 pm in room 2020 at the Nahum Gelber library. For questions and additional information about the Innocence project, please visit our website at <http://www.mcgill.ca/innocence> or feel free to speak to any current member: François Beaudry, Claire d'Anglemont de Tassigny and Simon Seïda (Law II); Dan Ambrosini, Gord Cruess, Liane Curtis, Adam DiStefano, Marianna Ferraro, Robert Israel, Naomi Kikoler, Jean-Olivier Lessard, Jason MacLean, Christine Mainville, Hugh Sandler, Rachel Shamash and Ryan Unruch (Law III).

We look forward to meeting you! ■

“Even when  
when the  
soldier dreams  
the war goes  
on...”

Wednesday,  
Thursday,  
Friday.

7:30 pm.

Moot Court.





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# NOT FOR GOD'S SAKE!

By Léonid Sirota (Law I)

I guess they're right when they say those straight-out-of-CÉGEP students are an inexperienced bunch unprepared for the rigours of the law faculty. Perhaps I really should blame it on my childish naïveté. Whatever might be the reason, I have to admit that I was taken quite aback when I saw a fellow student argue, on the WebCT discussion board for Professor Manderson's Foundations class, that people cannot, nowadays, feel an "extra-utilitarian connexion with the law" because we have "banished God" from the public discourse.

Of course, I know that Ronald Reagan claimed you could never trust a communist because communists are supposed to be godless and, therefore, intrinsically immoral. But that was Ronald Reagan – a man whom I never thought to have been smart enough to be even compared to a McGill Law student. And that was 20 or 25 years ago, in the U.S. I honestly didn't believe that a similar claim would be made in 2006, at the McGill Law faculty. How silly of me.

I would like, in this article, to make the contrary argument – that it is possible to feel an "extra-utilitarian connection to law" without believing in God; that faith in God is indeed irrelevant to such a connection. Before I begin, I must point out that I am *not* saying that not believing in God is more reasonable, or for whatever reason better, than

doing so; and that I am also *not* saying that an "extra-utilitarian" connection to law is preferable or not to a "utilitarian" one.

The argument that an "extra-utilitarian connection with the law" is impossible without believing in God rests on the Reagan idea – that without God, it is impossible to be moral. Or at least, I suppose, to have a non-utilitarian morality. It is argued that a sense of ethics, to be meaningful, needs an absolute and universal reference, which cannot be anything other than some form of divinity, for it must be neither transient nor "ever-changing" nor a "human construct" such as reason or human rights. It is said that a valid sense of ethics must rest on an absolute truth which, in turn, requires faith in something which has the characteristics, if not the name, of God.

In response, I would like to make the following observations. It is perfectly possible to have a well thought-out sense of ethics without believing in God – as, for example, Albert Camus had. Camus was an atheist who believed that the one fundamental absolute was the world's absurdity. And any conception of ethics, whether relying on God or not, can incorporate a principle of respect for Law. One can feel it is a duty, whether to himself or herself or to his or her fellow human beings. Duty is clearly not a utilitarian consideration.

It is true that to feel a duty one must believe in something. This "something" does not, however, have to be God, or God-like. More likely, it must be the human being, or humanity. Camus wrote that « J'ai choisi la justice, pour rester fidèle à la terre. Je continue à croire que ce monde n'a pas de sens supérieur. Mais je sais que quelque chose en lui a du sens, et c'est l'homme, parce qu'il est le seul être à exiger d'en avoir. »

It is argued that believing in humanity is, essentially, the same thing as believing in God. I beg to differ. True, it might not be a rational belief, and I cannot empirically prove that a human being has rights. But humanity, unlike God, is a concrete and definable entity, not a metaphysical one. It is also a changing and, as we have realised in the last 60 years, a transient one. It cannot provide the same kind of moral reassurance as an eternal and all-powerful God, so believing in it is a perfectly non-utilitarian attitude. It seems to me that the western civilisation has been based on this belief since, at least, the Renaissance and the Humanist thinkers. You may well believe that our civilisation is utterly rotten, but if you do not, then I think you have to find in our belief in mankind at least one reason for the good things that it has given us.

In addition to belief in my fellow human beings, or even as an alternative to it, a basis for a sense of duty can be found in a person's belief in himself or herself. An absolute duty, perhaps, needn't be owed to anything or anyone else at all. One can feel a duty to live up to a certain standard – not because anyone or

anything requires the person to do so, but because he or she wants it so, or he or she owes it to himself or herself as a human being. A person is a transient entity, entirely different from God, but it does not make a human being meaningless. That, I think, is what Camus meant in writing that « La lutte elle-même vers les sommets suffit à remplir un cœur d'homme. Il faut imaginer Sisyphe heureux. »

As for belief in God, it seems to me that it is, in fact, a largely utilitarian reason for feeling a connection with the law. A belief in God, after all, is usually associated, or even equated, with a belief in an afterlife. So God is first and foremost the entity that has the most potent retribution available to it to punish misbehaviour. A fear of God is thus the most utilitarian reason imaginable for feeling a connection to the law. Of course, one might believe in God without believing in an afterlife. But why such a God would be reason for a person to feel a connection to the law is, to me, rather unclear. ■

**"I asked  
Why. Why  
answered  
not."**

**Confused?  
Go see  
Strangers  
Among Us!**



# THE FINGER GAME

By Joshua Krane (Law II)

I was out for dinner with my aunt, uncle, and eight-year-old first cousin last Friday night. As it is custom at these dinners, my cousin monopolizes my time and attention. Although I often have a game, puzzle, or activity to structure our time together, this week, my cousin taught me a new game, using only our fingers. I do not remember what my cousin called this game, but I will do my best to articulate the rules. It would be much easier to show you how to play the game, but I am limited by a text-based medium.

This game, which involves no pieces, no pens, and no paper, can expose how "principles" and "rules" are related in play.

## THE RULES

**Objective:** Each person starts with one finger pointed on each hand. Each finger has a point value of one. When all five fingers are pointed, the hand goes out of play temporarily. A hand that is out of play loses all of its pointed fingers, and thus has zero points. The first person to have both hands out of play loses the game.

**Rule 1.** The players take turns making moves, and each player can make one move per turn.

**Rule 2.** A player can make one of the following moves in any turn:

**The Tap Move.** A player can tap one of the opponent's hands to allocate a pointed finger to that hand. The player does not lose the pointed finger, but the player will increase the number of

pointed fingers on an opponent's hand, thus bringing the total closer to five and closer and out of play. A player cannot point by using a hand that is out of play.

For example, if the player has one pointed finger on its left hand, and the player taps the opponent's right hand that also has one pointed finger, the opponent's right hand will now have two pointed fingers.

If the resulting sum of the pointed fingers is five or more the opponent's hand is out of play - for example, if a player uses his hand with three pointed fingers to tap an opponent's hand with four.

**The Split/Tap Move.** If the player has more than one pointed finger on a hand that player can tap both of the opponents' hands. The player may choose how to allocate those points.

For example, if a player taps by using a hand with three pointed fingers, that player can allocate one point to his opponent's left hand, and two to its right hand.

**The Switch Move.** The player can move pointed fingers from one hand to another. A player may even allocate fingers to a hand out of play, to bring both hands into play. The player is not entitled to Switch and Tap during the same turn.

For example, if the player has three pointed fingers on one hand and one on the other, the player can re-align the pointed fingers so that two are pointed on each hand.

**Rule 3.** A player may not make The Switch Move under

two conditions. First, if the player only has pointed fingers on one hand, the player may not move all of those pointed fingers to the other hand during the same turn.

Secondly, a player may not make The Switch Move if the number of pointed fingers on each hand is the same.

When I played this game for the first few times, Rule 3 was not in force. The game did not end until one of us made a big strategic blunder. If this rule was not present, the game could go on forever, because each player could switch pointed fingers back and forth to force a stalemate. My cousin insisted that Rule 3 not be in force, so that we could keep playing the game until he was sick of playing!

The rules of the game highlight some underlying principles that I would also like to share. Firstly, The Switch Move is a defensive move. It allows a player to reduce the number of fingers on each hand to make it more difficult for an opponent to knock a hand out of play. Choosing when to Tap and when to Switch not only requires knowledge of the game's strategy, but it requires consideration of an opponent's movements to predict whether one ought to be defensive, or whether one ought to leave many pointed fingers on one hand in order to knock an opponent's hand out of play on the next turn.

If you recall, for a player to win the game, that player must knock both of the opponent's hands out, by adding pointed fingers to sum five or more. Therefore, when one player has fewer pointed fingers, the chances of knocking the player's hands out of play decrease. However, to remove an

opponent's hands from play, and thus to win the game, a player must have lots of pointed fingers on his or her own hands (generally four and sometimes three) to push the opponent out quickly. A player must risk losing the game in order to win. I think this principle eluded my cousin, which was why he was not too successful (until I shared it with him, and he started winning).

This parable has concrete applications in this week's federal election. During the second of the English language debates, Prime Minister Paul Martin made a policy announcement that he would act to remove Parliament's capacity to override a court's *Charter* decision using the "notwithstanding" clause. We must ask ourselves how the removal of that "rule" would alter the underlying principles of the *Charter*. How would it affect the strategies of individuals or interest groups who seek endorsement of a *Charter* right?

Although I think my younger cousin just enjoyed spending time with his older cousin, even at eight years old, he could appreciate the principles that inform the game's strategy. This game, which any ten-fingered or ten-toed person can play, shows the relationship between rules and principles. The principles that I articulated underlie the rules and the strategy, but without the rules, we could not expose the game's principles. A player cannot "make" principle while in play. The player can only make a move - or act in accordance with the rules.

I would encourage the readers of this article to try and play this game for themselves. I think it is great fun. ■



# CUBA LIBRE

By Olivier Plessis (Law I)

Two weeks ago I was drinking crushed-ice mojitos in Cuba. This morning I'm crushing ice under my boots as I walk to school. The transition was surprisingly simple. A temperature change of sixty degrees Celsius is no worse than walking from the rotisserie-chicken to frozen-food sections of the grocery store. What is more difficult is reconciling a return to the capitalist world. Oh, Louis Vuitton bags, how I missed you! Over-sized sunglasses, pre-destroyed jeans, advertisements above the urinal – the world is a bleak and cold place in your absence. Granted, Cubans have eyesores of their own. Just how many billboards can you put up declaring Americans as "facistas"? At least call them imperialist pigs every once in a while to mix things up.

I have tried to tell a few reasonable people that Cuba's social system impressed me. This has not been popularly received. "Hold on," says my friend, the closet capitalist-imperialist supporter, "you don't mean to suggest that Cubanos are living better than we are?"

Okay, Havana is falling apart. People live in tiny, dilapidated houses. Everyone is always in the streets, probably because they can't all fit into their homes at the same time. Maybe they organize shifts. It is difficult to get certain things: soap, clothes, a decent hamburger. And you can't go on rants about why you hate Castro and how the Communist Party lives in

a "culture of entitlement".

But people seem...happy. There, I said it. There were more smiles per capita in that country than anywhere I've been. Everyone looks healthy, well-fed, adequately clothed, full of energy, and liable to bust out into an impromptu salsa routine at any moment. Young children play baseball in the street and old men hang around smoking cigars with nothing else to do. More people ask me for spare change in front of Videotron than in Cuba.

But I think it is wrong to compare Cuba to Canada. To begin with, we are a predominantly depressed Arctic people who will never salsa with adequately flexible hip movement, regardless of our social system. Cuba is simply a Caribbean country that is innately more jovial than us WASPy folk. Most importantly, we are one of the most developed countries in the world; Cuba is not.

We should instead compare Cuba to other Caribbean and Latin American nations. What you find in Cuba is a basic dignified standard of living for everyone; political stability; and a high level of education and health. This is lacking in almost every comparable nation in the region.

I would not want to be a rich person in Cuba. Or an overly-intelligent person, an overly-ambitious person, or an overly-critical person. But if all I wanted in life was to play baseball in the streets, dance with beautiful women, and retire to my porch to

smoke cigar after cigar, I would pick Cuba. Ambition is a little overrated; it is impossible to satisfy and it makes us slaves to other people's expectations, but admittedly this is a little bit rich coming from a law student.

Back in Montreal, I cannot hide my tan as I walk amongst my fellow hibernators. Misinterpreted, it serves the same social function as a Louis Vuitton bag. Like a Che Guevara image that has helped turn healthy profits here in North America, the sun that soaked my skin in Cuba has also had its meaning transformed in the capitalist world. But it helps me to admit something: I am a capitalist, born and raised, and a socialist system is not my natural habitat. My greedily-spacious 3 1/2 welcomes me back with open arms. I light up a Cohiba, pour myself a glass of Havana Club, and reach for the lotion to preserve my peeling skin. ■

"Even the most banal, indulgent and derivative work..."

"I think of Robert de Niro and wait for her to look at me..."

"You worry again that this might be children's theater..."

ACTUS REUS

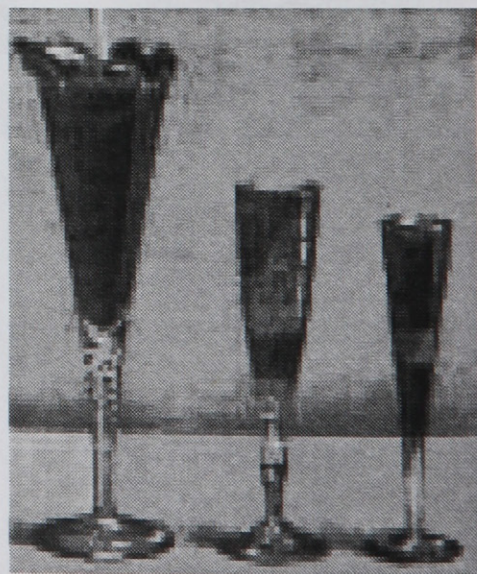
## Bringing Cuba Home: Make Your Very Own Mojito

### Ingredients:

2-3 oz Light rum  
Juice of 1 Lime (1 oz)  
2 tsp Sugar  
2-4 Mint sprigs  
Soda water

### Mixing instructions:

Lightly muddle the mint and sugar with a splash of soda water in a mixing glass until the sugar dissolve and you smell the mint. Squeeze the lime into the glass, add rum and shake with ice. Strain over cracked ice in a highball glass. Top with soda water, garnish with mint sprig and serve.





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# GRADING AT THE FACULTY

By Neil Modi (Law II), LSA VP Academic (vp-academic.lsa@elf.mcgill.ca)

I've recently come across complaints about grading and the variation in grading between the sections of the first-year Foundations course. In one section, the midterm was worth 50% of the final grade, and many students received Cs and Ds. These complaints are just the latest instalment in an ongoing debate at the Faculty over grades, a debate which was given a voice in the Blackett Report, but has yet to be resolved. At the root of the problem, I think, is persistent confusion over grades. I think it's high time that we move on from debating and tackle the issue of grading head-on. We can't afford to maintain the status quo any longer.

## **If the problem is a serious one then why don't more students voice their concerns?**

I get the feeling that since this is a small Faculty, and because of the confusion and mistrust surrounding grades, students don't want to complain to Faculty members they'll most likely be taking courses with in the future. In the spirit of professionalism and good faith, I would like to take this opportunity to advise the Faculty to do its best to address and resolve students' fear of voicing their concerns. In my experience, students shouldn't fear voicing their concerns, especially in this where the Faculty does in fact listen – I can attest to that. In any case, having a mysterious and confusing grading process doesn't help reduce the mistrust and may

be the greatest impediment to making students believe that they can voice their concerns. The worst response a Faculty can provide with regards to a problem is to deny the existence of that problem and thereby make the few students that do speak out feel alienated. Let's do our best to spread the message that we don't do that at this Faculty. Let's reiterate to students that we really listen to them in order to help accommodate them and that their worries about voicing their concerns are unfounded.

## **"Truths"**

In part, the problem of grading is exacerbated by an enormous number of "truths." The following is not an exhaustive list. To recap, some people claim that McGill Law is an institution built on traditionally lower grades. Some claim that a "B" is not a low grade – it's only third best to an "A" and second best to an "A-". Some claim that what other schools think of as "As", we think of as "Bs" and our "Cs" are only their "Bs". Many students claim that the Faculty curves grades, while the Faculty claims that it doesn't. Many people claim that law firms and other schools know that McGill traditionally grades lower (or that our grades are not inflated) and hire or admit our students regardless. Some offer that it's too bad that students get stressed about grades, but at the same time, some of these same people can't see how Cs and Ds could possibly contribute to that stress. Some people

claim that inflating grades could go a long way towards boosting morale and reducing stress (i.e., turning Cs into Bs and Ds into Cs, etc.). Finally, some people question whether we would even be having this debate if we were paying American Ivy League tuition. My take – no one at this Faculty has provided me with anything resembling a consistent policy on grading. I hear a lot of things that don't seem to add up when put together.

## **Isolating the Problem**

Most of us aren't sure how grading at the Faculty works. Is it right and desirable for profs to be able to justify their grading practices solely on the basis that they have used the same practices in the past? Are profs being unrealistic when they think everything is fine and crystal clear just because they may be consistent in their grading? I think that it is possible to consistently enforce a confusing system and that consistency doesn't make it right or desirable. What do you think? Either there is a problem with the performance of students in a class with a large number of Cs and Ds or there is a serious problem with grading. If the problem is with the students, then this requires immediate attention to make sure the students do better. It is the duty and responsibility of this Faculty and its students to ensure that. If the problem is with grading, then we have a serious problem on our hands.

Are our professors qualified to assign grades? Of course they're professors, but does that mean they've studied the art or science of assigning grades in a systematic and methodological manner? Do we even want our profs to assign grades in a systematic

or strict manner or does flexibility/discretion work to our advantage? What's going on in cases where, for example, the whole class gets a D on an assignment and the prof boosts the grades to a B (or might even leave them at a D)? To me, this clearly shows that either there was miscommunication somewhere along the lines or that the prof set an unrealistically high standard to begin. This revision isn't bad because it seems to work in favour of students, who'll end up with Bs, but the whole mess could have been avoided by better communication and more realistic expectations. Law courses work in a group of six or seven other courses and extra-curriculars, all of which impact performance in any particular course. Do profs take this into account when setting expectations about performance?

## **The Faculty's Explanation and Curving**

The Faculty's "we don't curve grades" explanation doesn't make sense. At least it doesn't make sense the way I understand it. Perhaps the Faculty is willing to clear it up for students? First, it doesn't make sense because I think I've heard professors use the term curve (possibly a sign of confusion on their parts or wrong choice of words?). Second, professors are given discretion over their grades, are told not to curve, but are given a list with average grade ranges for their courses (calculated somehow from past years). In this way professors seem to be getting the message not to curve but to take note that the grades for a particular course usually fall between, for example, a C and B and that it's ultimately up to them to use their discretion. As I understand it, when profs grade above or



below the suggested range, they are asked to explain why they have done so, in effect limiting their discretion. This explanation seems to punish profs that care about the stressful impact of grades on their students and seems to result in indirectly curving grades.

### **Lack of a Clear Policy on Grading**

Can we really blame students for not trusting grading at the Faculty? If I don't understand grading at the Faculty despite being the VP Academic and having access to a lot of information and resources, how can I and more importantly how can this Faculty expect the other 500 and something students to understand grading? How can the Faculty expect us not to care that we don't understand grading? Do students have access to a clear policy on grading that doesn't beat around the bush, that doesn't do indirectly what it's not supposed to do directly? Even if there were a policy on grading (and I just haven't looked hard enough for it), and it were waved in front of my face tomorrow, I would bet that it would create more confusion and mistrust than actually provide answers and resolve anything. That's really unfortunate and a bit saddening. Besides, it seems odd that if such a policy does exist, that the Faculty hasn't pointed it out to students when they start the programme. Another possibility is that a policy does exist but is not available or disclosed to students and is only available to professors. However, this seems odd and begs the question, "Is the Faculty trying to hide something and why?" Releasing a policy would go a long way towards improving trust and reducing confusion.

### **Clearing up the Confusion**

It's no wonder that students get defensive about their grades – what do we expect? For starters, we expect students to go see their profs and review their exams with them before they decide to accept their grades or complain about them. We encourage each other to review past exams and "A" exams in an attempt to understand the difference between grades and make some sense of the confusion. We are encouraged to study hard and study effectively. Although these suggestions are very well intentioned, and although I encourage all students to follow these suggestions, they don't resolve the confusion over grading. These suggestions only seek to make the situation better or more manageable. Unfortunately, for students who feel that they cannot trust grading at the Faculty, these suggestions aren't that effective and may only reinforce the confusion in the absence of a clear and public policy on grading.

### **The Status Quo and the Blackett Report**

Arguing that grading is like this at all law schools is not justifiable. McGill cannot claim to be the best if all it does it maintain the status quo. If we want to be leaders, we have to start doing things because we want to do them and not because we want to follow other law schools (of course, we should still use other schools as models). Let's get ourselves back on track by at least clearing up the confusion surrounding grading at the Faculty. What should we do? What action(s) should we take? Honestly, I don't know because I don't understand grading at the Faculty and

anything that I can come up with has already been suggested in the past couple of years. I'm hoping someone out there does know how to proceed. Do you? Perhaps, it's time to take another look at the Blackett Report and decide once and for all if we're proceeding with its recommendations or any modifications thereof? If we're not proceeding with the recommendations in the Blackett Report, then we have to think of something else, but we can't continue maintaining the status quo and continue to let grading woes consume our energies to the extent that they do.

### **Articulating a Policy**

For those interested, I invite you to articulate a clear policy on grading (i.e. profs – this is your chance). Please publish a Faculty policy on grading that doesn't beat around the bush, one that students can read and understand and appreciate, and one that doesn't only state the obvious – that profs have discretion. In your policy, please explain the role of the Marks Meeting, the role played by the Evaluations Committee, the role of the Dean's memo on grading (if such a memo or its equivalent exists), and any other useful information. I sincerely hope, for the future integrity of this Faculty, that someone credible will step up and clear the confusion.

### **What do Grades Mean?**

Students should be left with no doubt that the grades they get are a true indication of something – I'm so confused that I don't even know what they're supposed to be an indication of. Do you? What I do know is that grades seem to mean something to law firms and grad schools and it's important that our students get the best grades they

possibly can. Why should students get the best grades possible? Why can't we just settle for C or B averages? Why do we like high grades so much? Is asking these obvious questions the best defence that some have against addressing the confusion over grading?

### **Some Advice for First-Years**

Meanwhile, my advice to first-years is to hang in there and review your exams with your profs. If you feel that a prof has not been helpful and still think your grade in a particular course is unacceptable, please arrange to see Associate Dean Saumier. Always keep in mind that the deans and professors work for you and you don't have to feel intimidated by them or scared to approach them and ask them for justifications. They're all really nice and helpful people and contrary to what you might think, I don't believe (based on my experiences) that they'll hold it against you if you voice your concerns. You also have other options available such as getting your grades formally reviewed and filing grievances with Student Advocacy. Before you result to more drastic means, remember to take a breather, try to resolve the matter amicably, and act logically and not on initial emotion. We've all been through what you're going through and it will get better. I don't know if you'll be any less confused as you progress through the programme, but you will develop a knack for working and manoeuvring within the confusion.

Again, I invite my peers and the Faculty to respond, but let's try to move past the dialogue and finally clear the confusion. ■



# MCGILL LAW RED DEVILS ROCK SHERBROOKE AND BRING HOME DODGEBALL GLORY!

By Kara Morris (Law II), LSA VP Athletics

**E**arly this January, while most of you were contemplating whether to get out of bed and go to class, or still chilling on beaches in faraway places, fifty-eight of your fellow students were on their way to chilly Sherbrooke for five fun-filled days of sports, parties, and academic challenges.

The first day began with a rockin' bus ride to Sherbrooke, accompanied by some members of the UBC law games team. When we arrived, we checked into the Delta Sherbrooke – the nice hotel – and were handed law firm swag that ranged from bath towels to condoms. The first night's party saw the whole team decked out in matching embroidered baseball t's and toques at the Living Room, where we drank \$1 Budweiser and tried hard not to fall off the dance stage.

Thursday morning started bright and early, with Academics at 8am and Dodgeball at 8:30am. Law Games team captain

ensured even heavy sleepers woke to attend the game, as participants or spirit squad. We pushed through the hangovers to dominate Dalhousie in dodgeball but suffered an unfortunate defeat in a chilly outdoor match of flag football against U of Toronto after a few minor "disputes" about the rules. It really is something else to try and regulate a dispute between participants in a sporting challenge when both come from prestigious Canadian law schools. Sherbrooke's volunteers, to their credit, took it all in stride. Our basketball game against Osgoode Hall ended in a hard-fought defeat; they played rough – at times rough enough to injure one of our players – but no one could dispute Osgoode's legitimate dominance on the court.

Thursday was undeniably our biggest day in sports, with floor hockey, volleyball and ice hockey in addition to sports already mentioned. McGill surged to victory in its first round of volleyball, but

could not hold on to the second round win. Multiple sports at the same time hurt our numbers, but we continued to show the games that McGill is NOT a defaulting school. Our biggest effort was undoubtedly in ice hockey, when our seven-man and woman squad took to the ice with a goalie borrowed from the roster of Laval's more populous team. Simon was our star in a 0-5 blowout to Ottawa. It's ok, they were (to quote VP-PR Joe Hillier) "meanies". Things went much better in the gym, where our squad was victorious in "hockey-cosom."

Over at the academics, our illustrious pleading team of Jean-Phillipe Dallaire and Marc-André Seguin put in an impressive showing. Their pleading effort earned them 5<sup>th</sup> place out of fourteen teams, but the knowledge test is where our team stood out. Each team was asked to complete 50 questions, 25 in each official language. McGill's effort answered

thirty-nine of fifty questions correctly – more than any other team, including the moot judges! The overall academic trophy went to UBC, but McGill definitely earned an honorable mention (and a shiny plaque).

Sports tightened up on Friday, with Soccer and Ultimate starting, and ice hockey winding up. Miguel made highly effective use of the tried and true "blow an air horn until everyone gets up to tell you to shut it" method of rousing the floor. We showed better attendance than Sherbrooke in Ultimate, winning a tight default match of our eight players to their two. Simultaneously, floor hockey was close, but could not be sustained – Sherbrooke stopped our run for the championship right there on Friday morning. Soccer proved much more hopeful, with a fantastic match against Sherbrooke ending in a shootout to move to the next round. MVP goalie Tam Boyar stopped four of five shots, with our winning goals going to Chima and Andres. Props to the whole team for coming back from a 2-1 deficit to tie and send the match to a shootout. This was clearly the most exciting game of the tournament.

Friday night all law games participants headed to the Sherbrooke Exposition Centre for a "Snow Party"!



We were asked to wear white, and foam snow fell from the ceiling throughout. With a six-pack of Bud Light for \$10, an empty hand was an invitation to be given a beer, and a good time was had by all. This party followed on the heels of the previous night's team dinner at Cage aux Sports and pub crawl revelry. Highlights of the pub crawl included pounding a "40" of Bud Light to accompany five crackers, and simulated "kama-sutra" on stage.

Saturday was finals day for all the sports. Soccer semi-finals started the day at 10am. After a tight start with only two substitutes, a fresh crew of athletes arrived to fill the ranks for the rest of the game. Next, dodgeball semi-finals proved Ruby's tight strategy and fierce leadership on the court in three straight games. Minutes later, the dodgeball finals took place, pitting McGill against a U of Toronto team with questionable sportsmanship. We set ourselves to avenge a defeated Western team that lost to Toronto in the semis. Dodgeball depends on the honour system: when you get hit, you call yourself out. After watching some Toronto players fail to go "out" more than once, we felt it our duty to beat their asses. The first two games went handily to our

team. We took more hits than in previous matches, but overall showed our dominance. The third game saw Toronto turn up the heat by making some good plays quickly off the line. They were victorious in game three, but they had to watch out in game four. After a quick regrouping, McGill came back to pound the Toronto team in the fourth. Actually, only one McGill player was ever hit! Our own Marc-André Laflamme, playing from behind as a "cow" (don't ask) took out more than ten Toronto players single-handedly. McGill, victorious at last in our second showing in the finals in as many years, celebrated heartily with much cheering.

The only event that remained was the soccer final. Once again we were to meet U of T for the shot at the title of "Law Games Champion". Toronto got out of the gates quickly with a clutch goal early in the first half. Just before half time, the trouble started. Somehow, Emilia proved a greater obstacle than a Toronto forward expected – he tripped over her leg and went flying through the air onto the hard ground of the field house. Thankfully, he was uninjured, but Toronto garnered a free kick from the transaction. Shortly afterwards, in almost the exact same place on the field, a sprinting Toronto

player collided with Christine to less fortuitous results. As he writhed on the ground, it was all the McGill team could do to stare without looking like we were staring at the spectacle. Everyone's heart sank. Down their best player, with over twenty minutes left to play, Toronto discussed whether or not the game should go on. As play resumed, the mood was sombre. Then, minutes later as Peter crashed the net, the Toronto goalie dove for the ball, and once again there was an injury. Thankfully, this one recovered much quicker, but by then the life had been taken out of the game. The McGill squad ran around looking penitent, and Toronto scored two more goals to take an insurmountable three goal lead with five minutes to play. It was guilt by association (with accidental injuries) but all the fun was gone. When the game ended, we were glad to have the whole thing finished with.

The "dining-cocktail" was a beautiful cap to the event, and let many of us forget what had happened late that afternoon. Sherbrooke's hospitality was excellent. The most unfortunate and ex-post-facto amusing event of the evening occurred when a dozen or so McGill students were trapped in an elevator of the Delta hotel for over half an hour. There's nothing like a

**le 24 janvier, 2006**  
good game of "I never" in an enclosed space, but thank goodness for the fire department in times of crisis.

The evening ended with hotel parties at Le President, and individual rooms at the Delta. Once again, the guitar made an appearance, and everyone finished the last of the beer. Things wrapped up around 5am, with the buses leaving for Montreal at noon. We got on the bus tired, sick, hung-over, and hopeful that we hadn't left anyone behind. The 1 ½ hours was just long enough to wind down and get back to Montreal reality and the idea that there would be school the next day. So long Sherbrooke, we made some fond memories.... ■

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Osler, Hoskin & Harcourt S.E.N.C.R.L./s.r.l. a le plaisir d'inviter les étudiants de la Faculté de droit de l'Université McGill à une formation portant sur les grandes transactions commerciales le 1<sup>er</sup> février prochain, de 16 h à 18 h, à ses bureaux situés au 1000, rue de La Gauchetière Ouest, 21<sup>e</sup> étage, à Montréal.

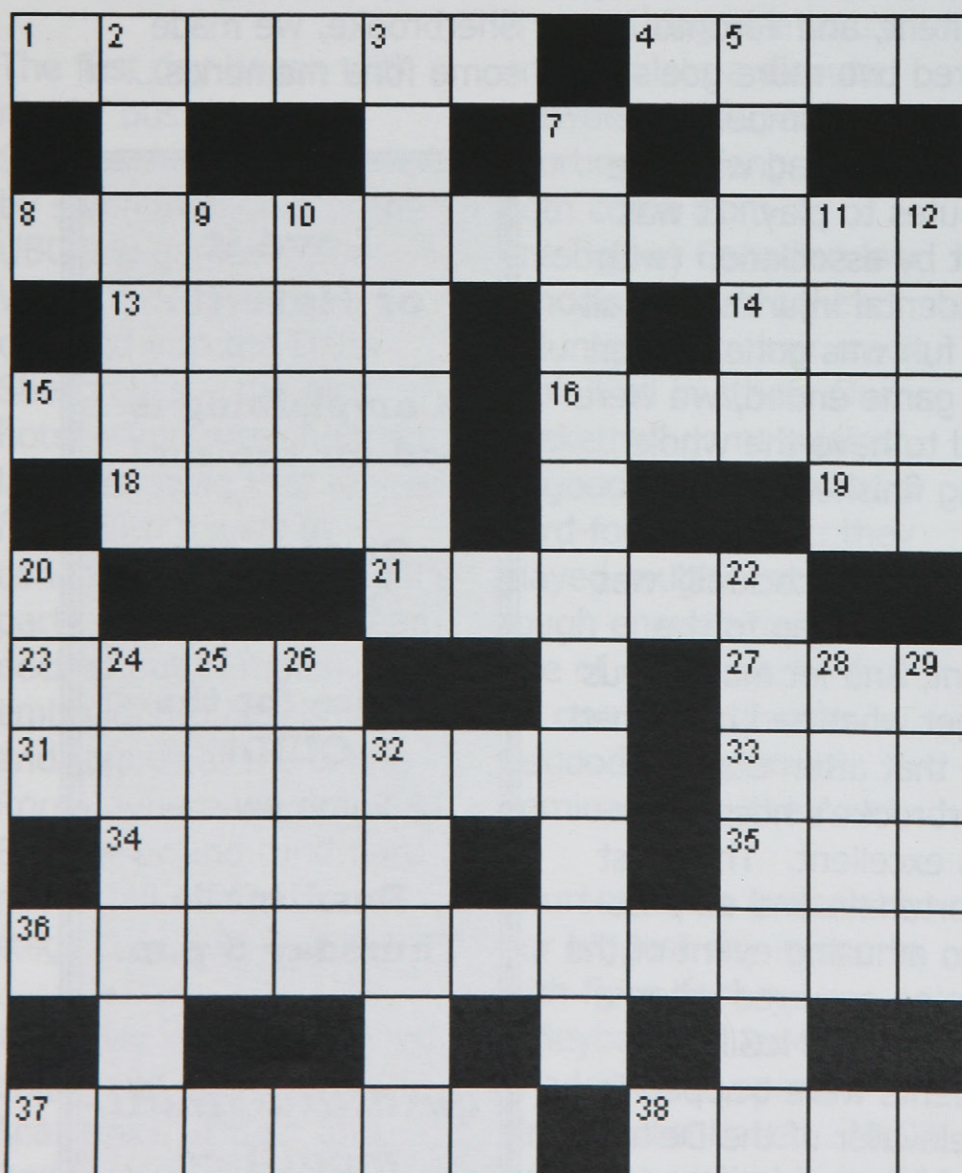
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*Un cocktail suivra la présentation / A cocktail will follow the presentation*  
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### **Across**

1. Recreational vehicle
4. Silly
8. Tonsillitis bacterium
13. Own
14. Ring
15. Wild card
16. Dagger-like weapon
18. Divorce center
19. Look closely
21. Lurches
23. Smooth-tongued
27. Official symbols of a family
31. Advantage
33. Extinction
34. Far away
35. Collective security organization
36. Authoritative statement
37. Help
38. Fake

### **Down**

2. Writer
3. Ruler of an empire
5. Unskilled laborer
6. Man's wig
7. Paving stone
9. Womanizer
10. Smooth
11. Poultry house
12. Top of a volcano
17. Strive
20. Russian security organisation
22. Sorrow
24. Finds out
25. Dope
26. Legume
28. 500 sheets
29. Consort
30. Intoxicated
32. Amphibians



# D + D + D + D + D + D + D + D + D = MUTINY

By Adrian Lomaga (Law II)

Prof. Howes has sown the seeds of discontent in his first year Foundations class. 1 out of every 8 students got a D on their exams (i.e., 9/71). A further 15 students got C or C+. 34% of Prof. Howes' class got a grade that, should it remain the same in April, will force those students to explain what went wrong to prospective employers. Worse, this exam is worth 50% of their final grade and was not "to assist only".

Either the admissions committee has made a terrible mistake in allowing 9 wayward souls into our astute institute of learning or else Prof. Howes has failed miserably to impart his teaching to his students. Judging by the fact that no other class has such a high percentage of students receiving a D, one may only conclude the latter.

You may wonder what interest a second year student has in this affair. Frankly, it boggles my mind to think that a professor who is new to the Faculty would do such a thing – particularly to first year students. All of us were at the top of our class before entering the Faculty. To receive a D (which for most is fair to assume is the first time ever) is demoralizing, agonizing, and downright soul-destroying. It is a mark that

is not used to encourage students to do better, but rather one that gives a stern warning that failure is just around the corner. Further, Prof. Howes cannot expect his students to continue to facilitate the learning experience by actively participating in class. At least a third of his class is, to put it lightly, pissed off. Even more disconcerting is the fact that the marks meeting did not flag this as a problem. Does Dean Kasirer approve of these results?

Something is going dreadfully wrong in Prof. Howes' class. This grade distribution, if left unchecked, will poison the learning environment and discourage many talented students from learning material that some believe is important for future lawyers to have considered.

Granted, all of my statements are based on the firm belief that McGill Law students are top notch and can get their minds around any concept they choose to master. If you share the confidence I have in our first year students, speak up in support of your fellow colleagues and let the administration know. And if you are one of the nine to get a D, don't stop screaming until you have been heard! ■

## Law Enforcement

Y	M	E	D	A	C	A	E	D	I	C	I	M	O	H
D	E	T	A	I	N	A	R	C	O	T	I	C	S	A
J	A	I	L	I	A	B	P	O	T	S	N	U	G	N
Y	S	A	F	E	T	Y	A	P	C	H	V	U	S	D
T	T	A	W	S	T	A	R	S	Z	I	E	N	T	C
I	R	Q	P	N	I	R	T	W	N	F	S	D	R	U
C	U	D	U	I	P	P	N	T	M	T	T	E	O	F
O	O	K	A	A	S	E	S	Y	S	I	R	P	F	
N	C	I	C	R	T	R	R	M	T	E	G	C	E	I
S	H	D	O	T	R	E	V	A	R	A	A	O	R	R
T	A	A	L	O	O	P	W	L	H	A	T	V	O	E
A	S	R	G	U	L	P	O	L	I	C	E	E	O	H
B	E	A	J	Y	T	E	S	T	I	F	Y	R	K	S
L	T	A	S	E	R	P	V	M	A	C	E	C	I	V
E	V	I	T	C	E	T	E	D	U	C	A	T	E	F

ACADEMY	GUN	RADIO
BAIL	HANDCUFF	REPORTS
CHASE	HOMICIDE	ROOKIE
CITY	INTERROGATE	SAFETY
CONSTABLE	INVESTIGATE	SHERIFF
COPS	JAIL	SHIFTS
COUNTY	LOCKUP	STATE
COURTS	MACE	SWAT
DETAIN	NARCOTICS	TASER
DETECTIVE	PARTNER	TESTIFY
DUI	PATROL	TRAIN
EDUCATE	PEPPER SPRAY	UNDERCOVER
FIREARM	POLICE	VICE

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QUID NOVI

# LES AVENTURES DU CAPITAINE CORPORATE AMERICA

par Laurence Bich-Carriere (Law II)

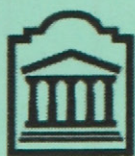


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